QUID NOVI

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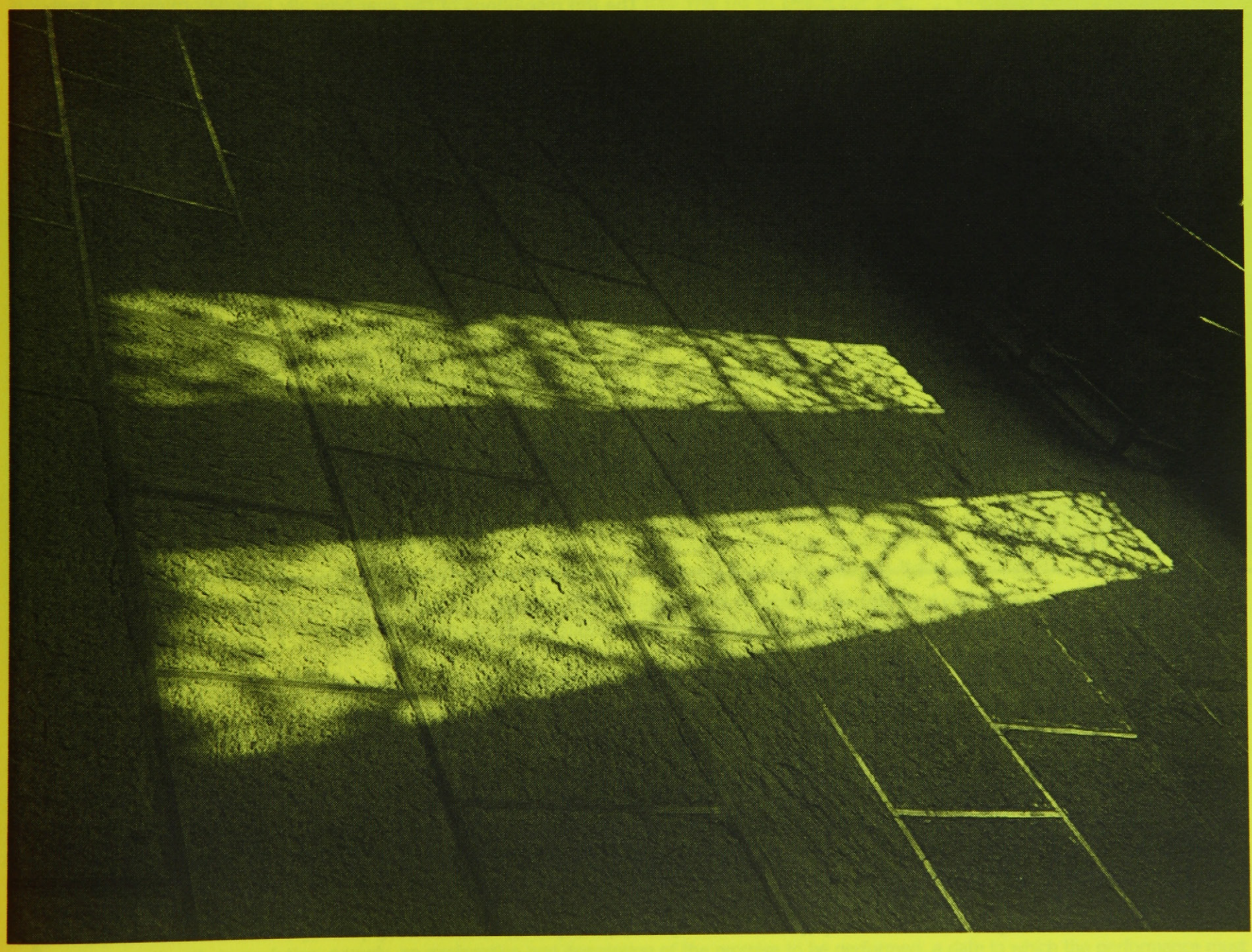

QUID NOVI

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IN THIS ISSUE...

EDITORIAL

Rethinking Resolutions: The Inherent Problem in Contracting with the Self

by Courtney Retter (Law I)

I have made the same New Year's resolution for the last five years. While I would prefer to think that this reality is a result of having found a resolution worthy of repeating year after year, the truth of the matter is that I never get around to completing the performance of my own promise. I am not alone. Statistically, the odds are against the New Year's resolver. While millions of people will be formulating their New Year's resolutions in the beginning of January, only 46% of resolutions will be kept after the first six months. And, with one semester of law school under my belt, I feel as if I have the authority to take a jab at the reason behind why so many people fail to realize their personal covenants. It all comes down to contractual obligations: the New Year's resolution is an agreement that does not have legal penalties. If the offer and acceptance of a promise is made between *one* person, namely, *you*, there is nothing preventing the promisor from cheating him/herself.

The top resolutions of the year typically include promises to exercise more, increase the amount of time dedicated to studying or work, quitting smoking or drinking and eating healthier. The proof is in the pudding. The traffic in the windows of the *MAA* on Peel are presently bumper to bumper. It is also not surprising that the sale of *Nicorette* gum peaks in the January 'quit season' when smokers are most likely to attempt to give it up. The *Canadian Medical Association* explains that North Americans interviewed in January about their past month's alcohol consumption are way more likely to report drinking activity than at *any other time of the year*. This pattern has actually been coined as the "January effect" –the confessional product of over-consumption during the holiday season in conjunction with a New Year's resolution to cut back on drinking. It can be argued, therefore, that *most* resolutions are created with the intent to improve the self. If the reason for entering a resolution contract is objectively aimed at improving the life of its promisor, and since a majority of individuals who create these agreements fail to achieve their objectives annually, can it be argued that the resolution contract is worthy of an external legalization mechanism?...**continued on page 3**

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Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse:
http://www.law.mcgill.ca/quid/epolicy/html.

Contributions should preferably be submitted as a .doc attachment (**and not, for instance, a ".docx."**).
Contributions should also include the **student year** of the contributor.

A MESSAGE FROM YOUR LSA LIBRARY COMMITTEE REPRESENTATIVE

by Michelle Gabowicz (LAW II)

As the LSA representative on the Law Library Committee this year, I feel obligated to respond to Mr. Buzoiu's article in the previous issue of the Quid about the state of the Nahum Gelber library. I do not believe that this is the forum to share my personal opinions, but I do recognize that many law students feel frustrated about the lack of study space, the broken lamps and the increasing number of non-law students.

In an effort to alleviate some of these frustrations, I would like to share some general information about the library and its administration that needs to be taken into account when discussing the Faculty of Law's role in ensuring that law students have access to study space and the library:

1) The library is part of the McGill Library system and is owned by McGill University. It does not "belong" to the Law Faculty. This means that non-law students have the right to study at Nahum Gelber, just as law students have the right to study at any library on campus.

2) SSMU provides funding for the security guards that patrol Nahum Gelber during the evening. Without this support, we would not be able to keep the library open late at night.

3) Funding for McGill libraries comes mainly from the McGill operating budget. All McGill libraries benefit from private donations and the law library's budget includes monies donated to the general Parents Fund, as well as from law graduates. However, the private contributions of law alumni do not mean present law students have an exclusive entitlement to the library's resources.

4) The third and fifth floors of Nahum Gelber are "reserved" for law students during exam time in an attempt to address the difficulty of finding a seat. However this is not an official policy that comes from McGill University and it is unclear if it would remain in force if it were ever challenged.

That being said, I raised these issues with Professor Macdonald, the head of the Law Library Committee, at the beginning of the school year and at a subsequent committee meeting. There was a discussion about the potential for finding students alternative study space in the Faculty. Professor Macdonald then raised these issues with Dean Kasirer which has resulted in the following initiatives:

1) Assistant Dean Bélanger will be looking into a mechanism for installing tables and chairs in the Atrium during the examination period to create more study space. It is feasible that this will be in place for the winter term exams.

2) Mr. Hobbins, the Law Librarian, has undertaken to keep an inventory of vacant seating during the fall exam term and keep statistics to determine the extent of the problem. The monitoring will happen during the day and again at 16h00, 17h45 and 21h45.

These initiatives should help to provide a long-term solution to the lack of study space for students at the Faculty of Law. The possibility of opening classrooms as study halls was also discussed, but is unfeasible because of two factors. The first is that keeping the classrooms open late would require the hiring of security patrols which is a significant expense. The second is that the classrooms are used for writing exams and it is the Faculty's policy not to use them for any other purpose during the examination period.

I hope that this article has helped to clarify some of the reasons why non-law students are permitted to use the law library. It is unfortunate that this impacts the law students' experiences and the Faculty has taken steps to address this, but due to the structure of the McGill Library system, policy decisions about library use ultimately lie with the Trenholme Director of Libraries (not the Law Librarian) who oversees all of the libraries.

I welcome any feedback that students may have about the library. Please feel free to approach me in person or e-mail me at LSA.librarycommittee@gmail.com. The next committee meeting will take place during winter term. As for the broken lamps that Mr. Buzoiu described in his article, I have been informed that the repair of these lamps required the ordering of special parts which had already been done before the publication of the article. Some of these parts arrived shortly after its publication and areas of the library have already been repaired, along with the ceiling lights.

...continued from page 2. I envision the following: a New Year's Resolution Registry.Each year, citizens of their respective provinces (or states) must register their resolution in order to publicize and record their promise and ensure the performance of their given goal. The standard rules of contract will apply. No resolution can be contrary to public policy. If an individual fails to record his or her resolution a default resolution will be provided by a predetermined list of objectively good deeds. All New Year's resolvers will be forced to consider the following essential contractual elements when creating their resolution, namely, an explanation and description of the promise to be performed, a date in which the performance must be achieved and finally a list of self-imposed penalties due to the incompletion of the promise. I see no other way to prevent resolution contracts from easily being broken. Without such a registry, the only reasonable New Year's resolution can be to *not have* a New Year's Resolution.

Statistics cited are retrievable at www.proactivechange.com

SPECQUE 2009: DEVIENS UN EUROPÉPUTÉ! YOU TOO CAN BECOME A EURODEPUTY!

by Judit Illes (LAW II)

For immediate release

London, November 24th 2008

A few weeks ago, I wrote an article in the Quid about my fantastic experience at SPECQUE, a European Union simulation conference that took place in Quebec City over the summer. As head of this year's delegation, I look forward to receiving applications from interested law students (and non-law students) who may wish to take part in the upcoming conference in Berlin and Dresden, from August 9th to the 15th. Please see below for the details!

At this time, I would also like thank the Dean's Discretionary Fund for its generous support of my participation in SPECQUE 2008! Merci!

The SPECQUE launches its recruitment

After eleven successful years, the SPECQUE (Simulation du Parlement Européen Canada-Québec-Europe) Model of the European Parliament is delighted to announce the launch of recruitment for its twelfth edition in Germany in the historic Bundestag in Berlin and the federal parliament of Saxony in Dresden. Close to 140 university students from across Canada, Europe and the world are invited to spend a week (August 9th to August 15th 2009) in the shoes of a Member of the European Parliament.

Participants will be chosen according to the quality of their applications and interest in the European Union's parliamentary institutions. Students are welcomed from a variety of academic backgrounds; from international relations, law, political science, economics, administration, communication studies, social sciences etc., and must have a working knowledge of French as the SPECQUE is conducted entirely in French. A delegate fee of approximately 325$ CAN / 225 € will be required to complete a delegate's registration once he or she has been accepted. This price includes the cost of all meals and accommodation for the duration of the simulation. Funds will be provided by the Federal Republic of Germany for participants from the new member states of the European Union.

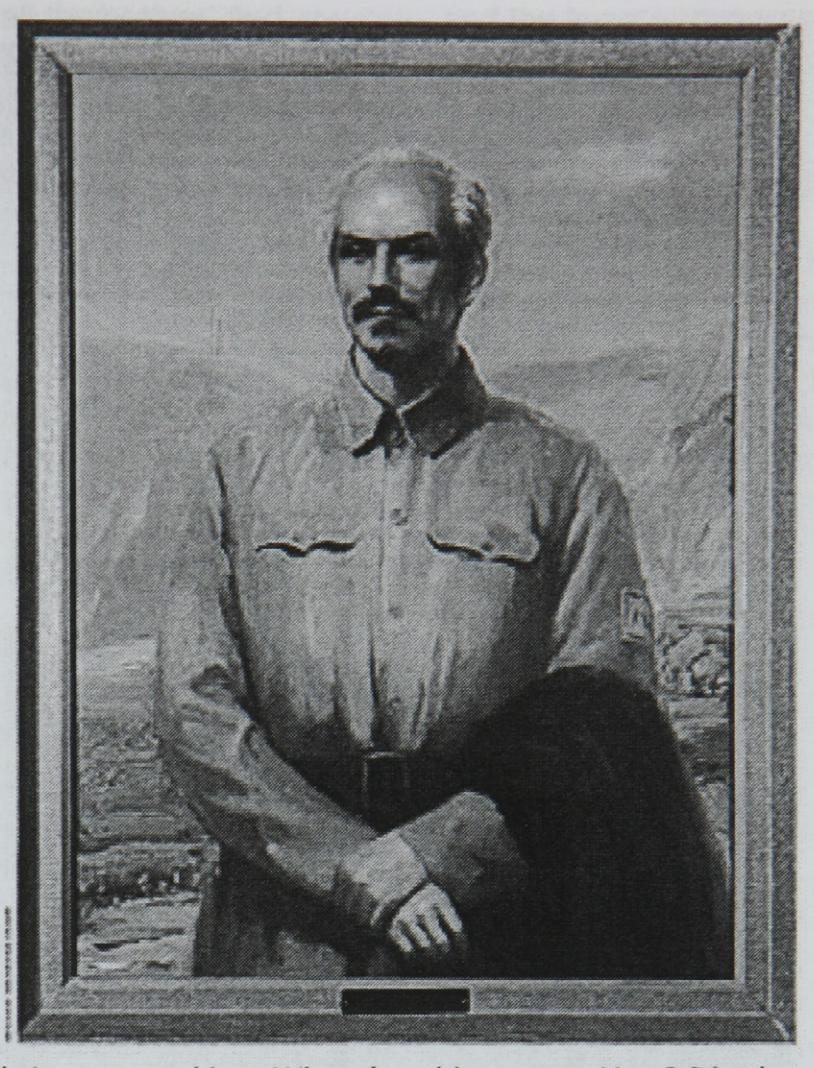
The SPECQUE is a unique simulation that distinguishes itself through its intercultural diversity, dynamic nature and academic rigor. As apprentice eurodeputies, participants will have the opportunity to debate about the European Unions current political, social and economical issues, converse about the goals of European integration and learn about the democratic and parliamentary mechanisms of the European Parliament.

Alternating annually between Europe and Canada, the simulation has already taken place in the Canadian House of Commons, the Wieloposki palace in Poland, the National Assembly of Quebec and in the exceptional setting of the European Parliament in Brussels. Last year's delegates had the honour of enjoying the simulation within the National Assembly of Quebec.

Interested students are invited to submit a short cover letter (preferably in French) outlining their motivations for participating and a CV by **January 17th** to **judit.illes@mail.mcgill.ca** . Each university could present a delegation of up to four students.

For more information, visit www.specque.org.

WOUNDS



by Jesse Gutman (LAW I)

In Montreal, 2009 is the year of Norman Bethune (March 4, 1890 – November 12, 1939), the so-called 'médecin du peuple.'

Published in 1940

The kerosene lamp overhead makes a steady buzzing sound like an incandescent hive of bees. Mud walls. Mud floor. Mud bed. White paper windows. Smell of blood and chloroform. Cold. Three o'clock in the morning, December 1, North China, near Lin Chu, with the 8th Route Army. Men with wounds. Wounds like little dried pools, caked with blackbrown earth; wounds with torn edges frilled with black gangrene; neat wounds, concealing beneath the abscess in their depths, burrowing into and around the great firm muscles like a dammed-back river, running around and between the muscles like a hot stream; wounds, expanding outward, decaying orchids or crushed carnations, terrible flowers of flesh; wounds from which the dark blood is spewed out in clots, mixed with the ominous gas bubbles, floating on the fresh flood of the still-continuing secondary haemorrhage.

Old filthy bandages stuck to the skin with blood-glue. Careful. Belief moisten first. Through the thigh. Pick the leg up. Why it's like a bag, a long, loose red stocking. What kind of stocking? A Christmas stocking. Where's that find strong rod of bone now? In a dozen pieces. Pick them out with your fingers; white as a dog's teeth, sharp and jagged. Now feel. Any more left? Yes, here. All? Yes; no, here's another piece. Is this muscle dead? Pinch it. Yes, it's dead, Cut it out. How can that heal? How can those muscles, once so strong, now so torn, so devastated, so ruined, resume their proud tension? Pull, relax. Pull, relax. What fun it was! Now that is finished. Now that's done. Now we are destroyed. Now what will we do with ourselves?

Next. What an infant! Seventeen. Shot through the belly. Chloroform. Ready? Gas rushes out of the opened peritoneal cavity. Odour of feces. Pink coils of distended intestine. Four perforations. Close them. Purse string suture. Sponge out the pelvis. Tube. Three tubes. Hard to close. Keep him warm. How? Dip those bricks into hot water.

Gangrene is a cunning, creeping fellow. Is this one alive? Yes, he lives. Technically speaking, he is alive. Give him saline intravenously. Perhaps the innumerable tiny cells of his body will remember. They may remember the hot salty sea, their ancestral home, their first food. With the memory of a million years, they may remember other tides, other oceans, and life being born of the sea and sun. It may make them raise their tired little heads, drink deep and struggle back into life again. It may do that.

And this one. Will he run along the road beside his mule at another harvest, with cries of pleasure and happiness? No, that one will never run again. How can you run with one leg? What will he do? Why, he'll sit and watch the other boys run.

What will he think? He'll think what you and I would think. What's the good of pity? Don't pity him! Pity would diminish his sacrifice. He did this for the defence of China. Help him. Lift him off the table. Carry him in your arms. Why, he's as light as a child! Yes, your child, my child.

How beautiful the body is: how perfect its pads; with what precision it moves; how obedient, proud and strong. How terrible when torn. The little flame of life sinks lower and lower, and with a flicker, goes out. It goes out like a candle goes out. Quietly and gently. It makes its protest at extinction, then submits. It has its day, then is silent.

Any more? Four Japanese prisoners. Bring them in. In this community of pain, there are no enemies. Cut away that blood-stained uniform. Stop that haemorrhage. Lay them beside the others. Why, they're alike as brothers! Are these soldiers professional man-killers? No, these are amateurs-in-arms. Workman's hands. These are workers-in-uniform.

No more. Six o'clock in the morning. God, it's cold in this room. Open the door. Over the distant, dark-blue mountains, a pale, faint line of light appears in the east. In an hour the sun will be up. To bed and sleep.

But sleep will not come. What is the cause of this cruelty, this stupidity? A million workmen come from Japan to kill or mutilate a million Chinese workmen. Why should the Japanese worker attack his brother worker, who is forced merely to defend himself. Will the Japanese worker benefit by the death of the Chinese? No, how can he gain? Then, in God's name, who will gain? Who is responsible for sending these Japanese workmen on this murderous mission? Who will profit from it? How was it possible to persuade the Japanese workmen to attack the Chinese Workman - his brother in poverty; his companion in misery?

Is it possible that a few rich men, a small class of men, have persuaded a million men to attack, and attempt to destroy, another million men as poor as they? So that these rich may be richer still? Terrible thought! How did they persuade these poor men to come to China? By telling them the truth? No, they would never have cone if they had known the truth, Did they dare to tell these workmen that the rich only wanted cheaper raw materials, more markets and more profit? No, they told them that this brutal war was for the "Glory of the Race," it was for the "Glory of the Emperor," it was for the "Honour of the State," it was for their "King and Country."

False. False as hell!

The agents of a criminal war of aggression, such as this, must be looked for like the agents of other crimes, such as murder, among those who are likely to benefit from those crimes. Will the 80,000,000 workers of Japan, the poor farmers, the unemployed industrial workers - will they gain? In the entire history of the wars of aggression, from the conquest of Mexico by Spain, the capture of India by England, the rape of Ethiopia by Italy, have the workers of those "victorious" countries ever been known to benefit? No, these

never benefit by such wars. Does the Japanese workman benefit by the natural resources of even his own country, by the gold, the silver, the iron, the coal, the oil? Long ago he ceased to possess that natural wealth. It belongs to the rich, the ruling class. The millions who work those mines live in poverty. So how is he likely to benefit by the armed robbery of the gold, silver, iron, coal and oil from China? Will not the rich owners of the one retain for their own profit the wealth of the other? Have they not always done so?

It would seem inescapable that the militarists and the capitalists of Japan are the only class likely to gain by this mass murder, this authorized madness, this sanctified butchery. That ruling class, the true state, stands accused.

Are wars of aggression, wars for the conquest of colonies, then, just big business? Yes, it would seem so, however much the perpetrators of such national crimes seek to hide their true purpose under banners of high-sounding abstractions and ideals. They make war to capture markets by murder; raw materials by rape. They find it cheaper to steal than to exchange; easier to butcher than to buy. This is the secret of war. This is the secret of all wars. Profit. Business. Profit. Blood money.

Behind all stands that terrible, implacable God of Business and Blood, whose name is Profit. Money, like an insatiable Moloch, demands its interest, its return, and will stop at nothing, not even the murder of millions, to satisfy its greed. Behind the army stand the militarists. Behind the militarists stand finance capital and the capitalist. Brothers in blood; companions in crime.

What do these enemies of the human race look like? Do they wear on their foreheads a sign so that they may be told, shunned and condemned as criminals? No. On the contrary. they are the respectable ones. They are honoured. They call themselves, and are called, gentlemen. What a travesty on the name, Gentlemen! They are the pillars of the state, of the church, of society. They support private and public charity out of the excess of their wealth. they endow institutions. In their private lives they are kind and considerate. they obey the law, their law, the law of property. But there is one sign by which these gentle gunmen can be told. Threaten a reduction on the profit of their money and the beast in them awakes with a snarl. They become ruthless as savages, brutal as madmen, remorseless as executioners. Such men as these must perish if the human race is to continue. There can be no permanent peace in the world while they live. Such an organization of human society as permits them to exist must be abolished.

These men make the wounds.

"THANK YOU" FROM APLAM

by Juho Song (LAW III)

The Asia Pacific Law Association would like to thank the LSA, SSMU, Québec Asia Law and Business Association, and everyone else who helped to make *APLAM Presentation: Practicing Law in Asia* (Nov. 17th, 2008) a great success. The event featured two outstanding speakers, both graduates of our faculty, Haig Oghigian, '79 (Baker & McKenzie, Tokyo) and Erik Richer La Flèche, '78 (Stikeman Elliott, Montréal) who shared with us some of their vast knowledge and experiences in practicing law in Asia. With over 35 in attendance – including students, lawyers, and journalists - Oghigian and Richer La Flèche made informative and candid presentations. The wine & cheese reception at Thompson House afterwards made the evening especially enjoyable and memorable. For more information on APLAM, please visit aplam.mcgill.ca.

ONE EARTH: GLOBALISM AND ANIMAL LAW

by SALDF (The Student Animal Legal Defense Fund)

At the 16th annual Animal Law Conference at Lewis & Clark College in Portland, Oregon, some of the most popular attendees walked into the lecture halls on four legs. Animal companions, students from law schools across North America, animal law scholars, professors, and practitioners all gathered for the weekend-long event which was entitled: *One Earth: Globalism and Animal Law*.

The conference featured a range of fascinating and thought-provoking panels with speakers from around the world. The panels covered issues including: "Fighting Factory Farms: Alternative Approaches", "Cruel Captivity: Animals in Entertainment", "Do Animals Have it Better in Commonwealth Countries?", "Persons or Property? The Ideal Status of Animals", "World Religions & Animal Law", "Military and Homeland Security Exemptions from Laws Affecting Wildlife", and "Pandas in Peril: Advancing Animal Law in Asia".

Thanks to generous funding by the Dean's Discretionary Fund, the Animal Legal Defense Fund, and the LSA, three students from the McGill Faculty of Law were able to attend. The three attendees will be sharing what they learned at the conference next semester at a SALDF *Lunch & Learn* event. Next year, SALDF will again be raising funds for other interested McGill Law students to attend this unique and inspiring conference.

COMPUTER CORNER: MY COMPUTER ATE MY CLASS NOTES!

by Narimane Nabahi (LAW III)

These days we seem to rely almost entirely on our computers that backing up our files as a precautionary measure undoubtedly appears to be a wise strategy. Your laptop could be stolen, your hard drive could crash, or you may simply erase the document containing your notes. This article will go over some of the different ways you can backup your data and will provide you with some of the pros and cons of each of these methods.

The "do nothing" backing up method

This is by far the most popular and easiest to method to implement. You don't do anything. The only problem is that once something goes wrong, it really goes wrong. If your laptop is stolen, there is little you can do, besides going to the police. If you still have access to your hardware but have trouble finding your files, there might be some solutions. For example, Ontrack Data Recovery makes a product that allows you to recover files from corrupted hard drives (assuming the hard drive is still working). Another tool I have used in the past is called WinHex: it it's a program that allows you to look at the raw content on your hard drive. You could use it to search for text you remember as being part of your document and try to extract it from the hard drive.

Anyways, I hope you read the rest of the article and never have to refer to this section when disaster strikes. While post-disaster solutions exist, they are never perfect.

WHERE: Trial of Ontrack Data Recovery – http://www.ontrackdatarecovery.com/data-recovery-downloads/.
Trial of WinHex – http://www.x-ways.net/winhex/.

PROS: Least amount of effort – before disaster strikes.

CONS: No real plan for the aftermath.

Backing up to your local hard drive

This is one option which, if setup right, gives you some protection around accidental file removals. The problem with this option is that it's like putting all your eggs into one basket. If you lose your hard drive, you lose your backup. Since this isn't really a solution, I won't discuss it much further.

PROS: Can help with accidental file removals.

CONS: No redundancy.

Backing up to a USB key

I know many law students are quite fond of their USB keys. We can even get a whole collection at the upcoming career days. Personally, while this is better than the first option, I find it to be one of the worst forms of backups. Why?
First, these backups will typically be manually initiated. This means that if you don't think about making that backup, you won't have a backup. To avoid this problem, you can do something worse: use the USB key as your primary storage. This is done by opening and saving files directly onto the key. This is risky because the likeliness of a USB key getting corrupted is higher than a hard drive getting corrupted. This could happen if you abruptly pull out the USB key from the computer (although there are settings to minimize this risk).
The list of detriments does not stop here. Your key will either be carried with your laptop or separately. If it's stored with your laptop, there is a chance that if one gets stolen, the other one is stolen as well. If you carry them separately, and this can occur every time you plug your USB key somewhere, you have the chance of forgetting your USB key. If this was your primary copy, you have just lost all your files. And unless you encrypted your data, your files are open for all to see. So for all of these negative reasons, I would stay away from using USB keys unless it's a temporary way to transfer files.

WHERE: At the career days – although rumour has it that some firms are cutting down on the freebies.

PROS: Better than not doing a backup. Easy to carry around. Inexpensive.

CONS: Chances of corruption. Chances of losing the USB key. Manual backup method.

Backing up to a portable/external hard drive

This method shares some of the problems of the USB key. I won't go into a detailed analysis, but one advantage is that if you buy a commercial solution (for example, LaCie Desktop Hard Disk or Maxtor One Touch Hard Drives), it will come with software to make backups easier. This could be a routine: every time you come home you initiate the backup process. I don't like this solution because it's not transparent: you have to remember to connect the external drive to your computer. One risk with this solution is that if your house is burglarized you have a chance of losing the external hard drive and your laptop. It is also relatively more expensive than a USB key.

WHERE: LaCie hard drives – http://www.lacie.com/cafr/products/product.htm?pid=11050.
Maxtor hard drives – http://www.maxtor.com/en/external-drives/external-hard-drive/.

PROS: More robust than USB keys.

CONS: Expensive. Risk of being stolen. Manual backup method.

Backing up to a network location

By now some of you must be wondering, if I don't like USB keys or external hard drives, what kind of solution do I recommend? My favourite solutions all revolve around using network storage. What is network storage? It's relying on some storage unit that is accessible through a network, typically the Internet. These solutions usually share common characteristics which are rarely found in local solutions.

1. Network storage is often accessible from everywhere: unlike a USB key, you cannot "forget" your network storage anywhere.
2. Network storage generally uses better equipment. A hard drive can crash, but companies providing network storage store the data on systems with multiple hard drives. If one hard drive crashes, the rest of the system functions without a hiccup.
3. Network storage is more secure: provided you protect your password, then people cannot gain access to your files. The same cannot be said about a USB key.

McGill provides 100 megabytes of such storage that can be used by every student. You can use this space when you login to the university computers. You can also access this space from any other computer. To configure this, follow the "simple" instructions on the McGill ICS website (look for the WEBDAV instructions). There are some issues with this solution. If you use the McGill space as primary storage, you run the risk of not being able to access your file when you lack Internet connectivity. If you use it for storing backups, which is what I would do, you have to remember to backup your files to it. The other problem is that 100 megabytes is not a lot of space, and it's easy to fill it up. Still, it's the best place to store your backups: it's safe, it's accessible everywhere and you can't lose that space – at least not until you graduate.

WHERE: McGill storage – http://www.health.library.mcgill.ca/services/comprint/workstation/saving_your_files.pdf
Or go to http://knowledgebase.mcgill.ca/ and search for 1898.

PROS: Free. Secure. Safe. Easily accessible.

CONS: Limited space. Manual backup method.

In my next column I will describe two great services to store backups on network storage.
You can find this column **with hyperlinks** online at *www.twistlaw.ca*. If you have any questions, email me at Narimane.nabahi@mail.mcgill.ca.

LAW SCHOOL UNPLUGGED

by Alison Glaser (LAW IV)

So, picture this scenario. I have one more exam left, my only sit-down exam of the semester. I'm all ready: textbook, summary, notes on my notes, computer with the stupid software, all ready to go. I plug in my computer and open it. Nothing. I press the power button. Nothing. All I get from the computer is a blinking orange light. It is the orange light of death. My computer is no more.
Obviously at that point I threw my computer back in my bag and went to grab for my pens, sighing as I suspected the exam would be long and my hand would get tired by the end (it was and it did). So, meanwhile, as you can tell from my by-line, I do not have much time left at the Faculty. Like, 4 months. Then after that, I will be in bar school (no laptop necessary), and then articling (no laptop necessary, as I will never leave the office, which has a perfectly nice computer...), and then hopefully working (where I will have a computer and/or blackberry). So, honestly, a laptop seems like an expense that is really not worth it for me right now. My husband and I were actually thinking of buying a desktop when I am done, since he gets a laptop from work, and those are much cheaper (unless he succeeds in convincing me that we need those crazy iMac thingies, which is unlikely). So, the question has become, what to do for the next four months?
Solution one was to use my husband's non-work laptop here. This is an okay solution, but has several problems. 1) It is a Mac, and therefore somewhat incomprehensible to a PC girl like me. 2) It has no French spell-check, which is a disaster. 3) It is around 8 years old, so it has old versions of Microsoft Word and such, which makes it more difficult to make summaries. However, for my one "traditional" law school class (lots of readings, 100% open-book final, etc.) it is fine and I am using it.
Solution two was far more radical: to stop using my computer altogether and to take notes by hand. I know this sort of sounds like crazy talk, but truly, for the rest of my classes, this is what I decided to do. And you know what: it's not that bad. Frankly, I pay more attention since I'm not checking email or news or anything (not that I ever did that in YOUR class, professor who is reading this right now...). Also, I'm in a few seminars, and it is much nicer to interact with people when you are not behind a screen. Finally, my focus has become listening in class and not desperately trying to write stuff down. Now, of course, I am talking about a grand total of four days here, but I think this is working for me! Of course there are some things that I miss, like lightening fast access to different legislation, and being able to organize my notes in a pretty and coherent way. Also, frankly, for a class with an open-book final, I find a computer is still invaluable (since, lets face it, I am not doing double work by making a summary separate from my class notes). But, hey, the computer is not essential. I like to think that I have returned to an easier and simpler way of life, a pre-law, laissez-faire, take things as they come and if you didn't catch what the prof said oh well who cares kind of life. So, now, if you'll excuse me, I've got to go check my Facebook in the computer lab...

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Réné Cassin on Gaza? : Human Rights in Shades of Grey

by Yesse Gutman (LAW I)

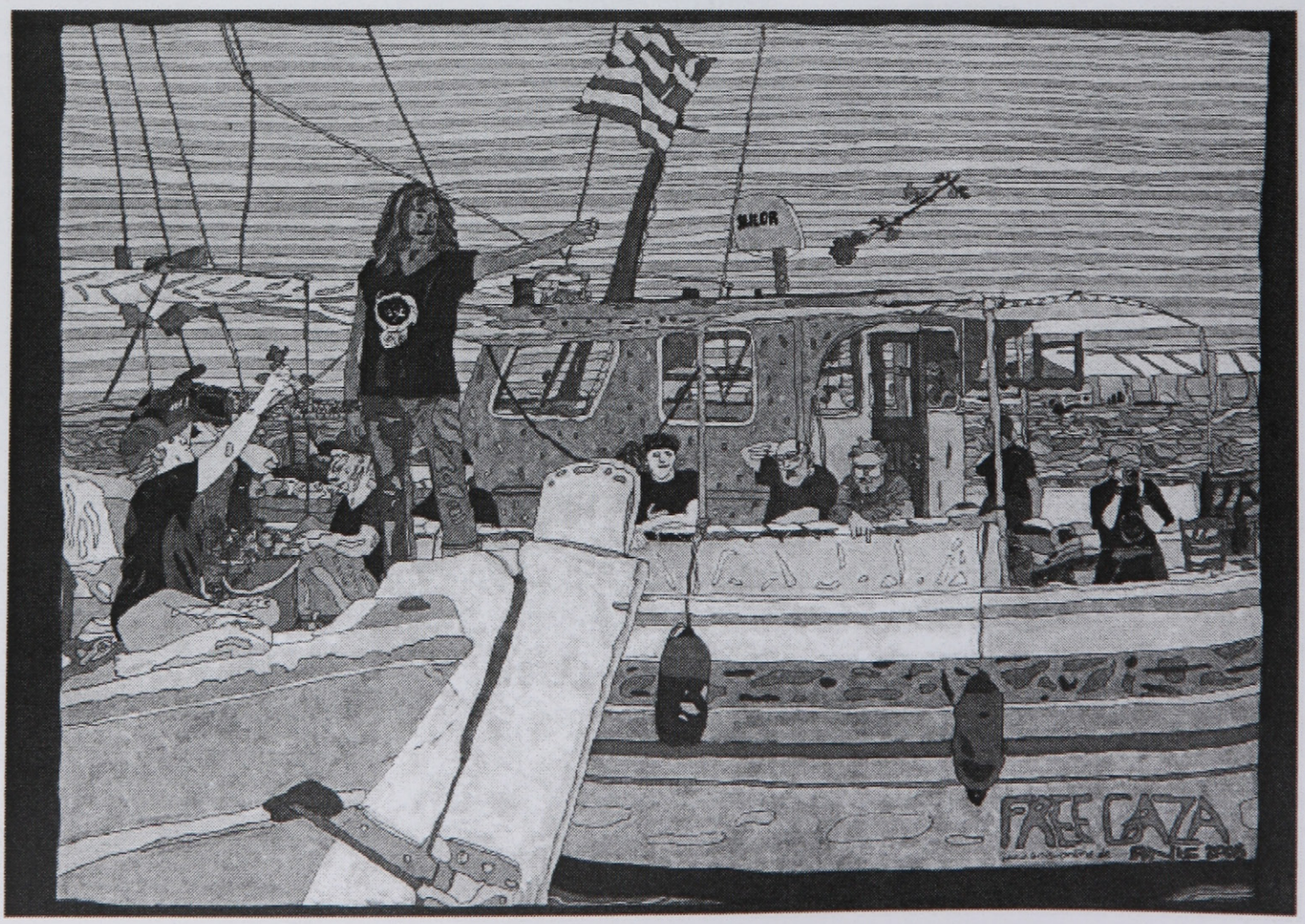
On Wednesday, January 14th, at 6:30 pm in Leacock 219, Israeli anthropologist Jeff Halper will give a talk entitled: "A Judaism of Human Rights: Réné Cassin." Introduction and comments will be given by former McGill law professor and civil rights lawyer Julius Grey.

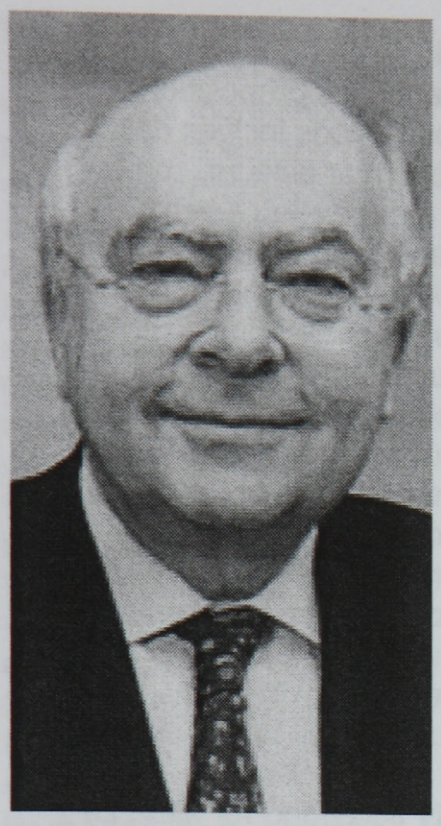
The most striking observation from the Gaza war is the use of disproportionate force. Some justify its use as a 'cruel necessity' to root out the sources of terror. Others assert it mirrors a conflict painted with disproportion and inequality – of wealth, land, military strength, and international clout. The United Nations is calling Gaza a "full-blown humanitarian crisis".

What would our very own grandfather of institutional humanitarianism have to say? Our faculty has heard a lot about John Humphrey lately – his pictures and artful calligraphy grace the atrium – in honour of the document he crafted. This display should be more than erudite drapery to our weekly booze and schmooze nights; it should inspire genuine reflection. Let me offer you a springboard.

Réné Cassin, a French Jew and jurist, won the Nobel Peace prize in 1968 for his work as a lawmaker, especially in aiding Humphrey in drafting the Universal Declaration of Human Rights. The legacy of this advocate of disarmament and human rights has not been forgotten and has contemporary relevance. "Cassin had had articulated what most Jews, especially of the post-Holocaust Diaspora, realized intuitively: that only in a world based on universal human rights would Jews find the security and equality that had so long eluded them," writes Jeff Halper of the Israeli Committee Against House Demolitions (ICAHD).

Halper was on the SS Free Gaza which was the first (non-military) vessel to enter Gaza by water since the siege. Here he explains what led him to form ICAHD: "The decision to pursue the issue of house demolitions marked not only a return of the Israeli peace movement to active opposition to the Occupation but fundamentally changed the very way we worked. Palestinians needed neither our "solidarity" nor our symbolic protests. Facing the demolition of their homes, they wanted to know what we would actually do for them. Could we prevent the demolitions? If the bulldozers arrived at 5 AM, could they call us and expect us to come running? Would we actually resist demolitions together with them, putting





ourselves at risk to save their homes? And if demolitions did take place, would we, could we, help them secure legal building permits? Would we help refinance and rebuild the homes? And what were we prepared to do to change Israeli government policy? How would we let the world know what was happening?"

"A turn to human rights and international law offers the best – I would say the only – hope of rescuing an Israel gone fundamentally wrong," Halper continues. "But insisting on the primacy of human rights is of prime importance to Diaspora Jews as well. Israel may enjoy short-term benefits from avoiding accountability under international law, but that runs counter to the long-term interests of the Jewish people whose security depends upon a world order based upon universal human rights. The jurist Cassin realized that persecution against the Jews over the centuries derived, in large part, from their exclusion from all forms of law, be it tribal, ecclesiastical or civil. They were history's ultimate Others, strangers, aliens. Universal human rights finally bring the Jews "under the umbrella" as an integral part of the human family. The fundamental question for world Jewry vis-à-vis Israel, then, is whether we want to step outside the umbrella once more. Is it in the broader Jewish interest to claim, as Israel does, that human rights covenants and international law do not apply to us? Do we really want to be a "special case" again?"

For more information about Me. Grey, ask one of your professors or open our city's most reputable and widely-read paper, *La Journal de Montréal*.

Come learn about the siege on Gaza. Offer your viewpoint and challenge your presuppositions. The event will be co-sponsored by Independent Jewish Voices-Montreal, Amnesty International Quebec, and Young Jews for Social Justice (a QPIRG McGill working-group.) Unfortunately there will be neither jazz nor fancy finger food. All are welcome.

MARKET MUTTERINGS

by Jer Lewsaw (LAW I)

The influence of social conservatism on the financial crisis has been negative and unappreciated. I realized this recently as a result of three parallel encounters with friends and family. The first was when my girlfriend, catching a TV excerpt of John McCain praising free trade, asked me for a reminder of why I didn't prefer the Republicans. Next was my father e-mailing his frustration at why I do not vote Conservative, and the third was a discussion with my friend Daniel King about why I won't consider voting for Mario Dumont's ADQ party. The answer to all three is simple: social conservatism. On economic issues alone, it's true that these conservative parties shouldn't have too much difficulty stripping my vote away from the Liberals (and my sympathy from the Democrats). Yet, they'll never seriously contend for my vote nor those of many like me, so long as they remain preoccupied with advocating a societal reversion to the supposed good old days of religion and family.

The market (and therefore society in general) would better be served if the voices of urban fiscal conservatives could be expressed without being obstructed by those of social conservatives. Social conservatives keep me and my fellow urban fiscal conservatives away from the Republicans, the Conservatives and the ADQ. We care primarily about economic efficiency and removing obstructions to free trade. However, most of us simply refuse to be associated with politicians like Sarah Palin. We live primarily in major urban centers and come from all ethnic backgrounds and sexual orientations. We are well-educated, and we all count people who are entirely different from ourselves among our dearest friends. When faced with the choice between a party that represents rural social conservatism and one that represents urban modernism, we will usually vote for the (*continued on p. 16*)

Islamophobia at Queen's: A Response

by Junaid Subhan (LAW III), Rodrigo Marillanca & Nafay Choudhury (LAW II)

The *Muslim Law Students' Association* (MLSA) submits this response to two articles that appeared in the last edition of the Quid. The articles voiced opposition to the LSA's decision to endorse a letter regarding a string of Islamophobic incidents at Queen's University. Before proceeding further, we would like to thank the writers for sharing their views on this matter and thereby permitting a broader discussion on the most effective means of addressing intolerance.

Our involvement in the issue began when a Queen's alum and MLSA board-member was made aware of the incidents. Our board then placed a call to the *Queen's University Muslim Students' Association* (QUMSA) inquiring if we could be of assistance. In part because the most recent incidents were only the latest manifestation in a trend of Islamophobic behaviour on campus, QUMSA believed that the Queen's administration was not sufficiently responsive to the incidents. QUMSA was in the midst of a campaign urging the administration to address the issue proactively when we approached them. They suggested we write a letter of support addressed to Principal Tom Williams. We took it upon ourselves to solicit the endorsements of several Muslim Students' Associations across Canada and wrote a letter addressing Islamophobia from the perspective of Canadian Muslim students. During this effort we were approached by RadLaw with a gracious offer of support. The MLSA suggested that RadLaw draft a letter similar in purpose to our own but on behalf of Canadian students. For their leadership and substantial contribution to our effort, we offer our gratitude to RadLaw. We also offer our gratitude to the LSA for their unwavering support in the face of a difficult decision.

La question centrale à laquelle cherche à répondre le présent article est la suivante: dans la mesure où les incidents qui sont survenus à l'Université Queen's sont, comme l'affirment les auteurs des articles du 25 novembre, incontestablement reprochables, pour quelles raisons l'AÉD devrait-elle s'abstenir de dénoncer ces incidents ? Les auteurs avancent, d'une part, que le moyen choisit (à savoir l'envoi de la lettre à l'administration Queen's) n'aurait pas été approprié et, d'autre part, que l'AÉD aurait agi en dehors de son mandat.

Au sujet de la première objection, ayant trait à la pertinence, voire l'efficacité, de la lettre rédigée par RadLaw et endossée par l'AÉD, il est important de rappeler tout d'abord les incidents de nature xénophobe qu'a connus l'Université Queen's. En fait, depuis plus de trois ans déjà, plusieurs actes touchant des musulmanes et musulmans ont été répertoriés par les autorités locales. Ceux qui nous concernent tout particulièrement remontent au 17 septembre 2008, lorsque des individus sont entrés par infraction et ont vandalisé le bureau du QUMSA causant des pertes matérielles de plus de 1000$ (parmi lesquelles on compte des dons en argent). Le lendemain, on retrouva sur la porte du bureau un graffiti incitant au mépris : « *Queens Muslim Students Should Die* ». À ces gestes déjà en soi violents, on doit ajouter des harcèlements verbaux (« *F...ing Terrorists* ») et physiques subis principalement par des étudiantes musulmanes identifiables par leur voile. C'est dans ce contexte que le MLSA a décidé d'adressée une lettre à l'administration de Queen's afin de dénoncer ces actes de violence et l'atmosphère d'insécurité dans laquelle se trouvaient ces étudiants. Or, ce n'est pas tant l'intention de rédiger une lettre dont il est ici question, mais bien plutôt de la pertinence d'une telle mesure et par voie de corollaire, des conséquences concrètes d'une telle initiative.

À ce propos, il appert intéressant de souligner que le MLSA reçu une réponse par courriel du directeur et vice-président Tom Williams dans laquelle il saluait tout d'abord notre initiative et ensuite, prometait de prendre en considération les propositions que nous avions inclues dans la lettre. Par ailleurs, comme le rapporte le *Queen's Gazette* du 8 décembre 2008, lors d'une rencontre du sénat de l'Université Queen's qui a eu lieu le 27 novembre dernier, les sénateurs ont reconnu que « the university could have acted more swiftly in response to a recent rash of Islamophobic incidents on campus ». En ce sens, ajoute le directeur Tom Williams, « Queen's still has a long way to go in making the community accepting for all ». La gravité des événements et la lenteur avec laquelle l'administration Queen's s'est penchée sur ces incidents justifient non seulement que des associations telles que le MLSA, RadLaw ou l'AÉD expriment, par l'entremise d'une lettre, leur désarroi, mais justifient surtout l'importance d'un geste aussi modeste.

On the second issue, the MLSA agrees with the writers that the questions about the LSA's mandate can be a legitimate concern. LSA's in general, can exclusively claim to represent the unified voice of all law students at a given university. As a result of this responsibility, it makes sense to require an LSA to act in a manner consistent with a constitutional mandate agreed upon by its constituents. We would assume that the LSA Council itself is best suited to identifying the scope of the LSA's mandate and that its majority decision to endorse the letter, in the face of dissenting opinion and the option of delaying consideration to a subsequent meeting, is an indication that the Council believed they were acting

within their mandate. The questions of mandate, however, elicit a more important point: how do we, the next generation of jurists, see the role of our profession in the community we serve? Procedural and bureaucratic matters are useful for organizations in that they provide a measure of order and stability. The other side of the same coin, however, is that these procedural issues have a tendency of maintaining the status quo and consolidating decision-making ability in the hands of a few. In the same way, the mandate argument raised by the writers is a useful tool for analyzing LSA decisions in some contexts. Over-extending the issue of mandate, however, stifles leadership and hinders the LSA from making a difference where it can. As members of a profession that seeks to scrutinize and regulate human behaviour, we ought not to seek refuge in the safe haven of bureaucracy and neutrality when the burden of neutrality is borne most heavily by those who can least bear it. It therefore seems that when a clear injustice is perceived, we must resist allure of neutrality and embrace initiative to change the status quo.

Changing the status quo is what this whole initiative is about and this is indeed something that McGill law students are familiar with. McGill University's Faculty of Law has a rich tradition in the study of human rights. Many students chose to enrol at McGill because of this and student initiative and enthusiasm is an important reason for our continuing excellence in the discipline. The assumptions that underlie the human rights movement, though, have been criticized by scholars. Professor Makau Mutua, for example, provides a sober reminder that human rights advocacy habitually focuses on violations in developing nations while silently passing over Western parallels. Make no mistake, it is beyond question that human rights practitioners have brought about important improvements in the lives of many. However, given this concern, should we not address the injustices in our own communities with as much vigour as we address those in developing nations? As Canadians, we all take pride in aspiring to the ideals enshrined in the *Charter of Rights and Freedoms*. Indeed, it is this aspiration that binds a law student in Montreal with a Muslim student in Kingston, free of any issue of cultural relativity that Mutua cites as a shortcoming of the greater human rights movement. From this common understanding, it seems justifiable -- perhaps even imperative -- for a group of concerned students to demand that their colleagues be granted the safeguards that all who reside in our nation are entitled to.

The MLSA invites students to share their opinions: mlsamcgill@gmail.com

OUR SOCIAL OBLIGATIONS AS LAW STUDENTS

by Alexandra Dodger (LAW II)

Believe it or not, when you look around your classrooms, you are seeing the future of Canada's justice system. Yes, some jetsetters might set out for New York or Paris, never to return. But McGill Law graduates and the alumni of our peer institutions will form the professional corps that will shape the face of Canadian jurisprudence in the years ahead.

Given that reality, we have an obligation to speak out against injustices beyond those that affect us personally. I was surprised to see pages of letters condemning the recent LSA council motion to send a letter urging the Queen's University administration to take a strong stance against Islamophobia and to back up their positions with action. Why should some see it as inappropriate for students of McGill Law to address such concerns to Queen's University?

Far too often, political debates about stopping racism, homophobia and other forms of discrimination (for example, against native peoples) take the form of someone saying, "Well I obviously don't support discrimination against Muslims, but should we really be rocking the boat in this way?" I would like to invite all those who claim not to support the perpetuation of the status quo – where too many of us and our peers do face discrimination and inequality – to ask themselves what they have done lately to challenge racism,sexism, homophobia or any other kind of injustice. Racism isn't going to stop itself. It's our collective responsibility, and to everyone who thinks writing a letter is going too far...how much less aggressive could an anti-racist action be?

The Queen's Journal reports that in addition to the president of one of the student councils on campus making online comments about two female students wearing veils as "Taliban pictures," the QUMSA (Queen's U. Muslim Student Association) office has been repeatedly broken into and vandalized. Graffiti included the words "Die Muslim Die." Campus police reported the last attempted break-in was foiled as a result of tempered steel plates being added to the doors, but that it appeared a chainsaw had been used in an attempt to gain entry. Does this sound like a safe learning environment for Muslim students? For any students? Should only Queen's University students care? Is writing a letter really an unwarranted response?

Queen's is only a few hours away, and has a lot in common with our own university. Many McGill students and Queen's students will at some point study and work on each other's

campuses, and our relationships with other universities influence the policies and programs adopted by our own.

The letters last week portray the LSA as some kind of interloper, getting our nose in other people's dirty laundry. It makes no mention of the fact that QUMSA solicited national support from student groups across the country to try and show the Queen's administration that people off-campus cared about what was happening. When a group that has been attacked asks its peers to write letters of support and solidarity, that's not interference. The letters don't mention that the Muslim Law Students' Association at McGill is also working with QUMSA. Hate crimes such as spraying graffiti that says Muslims should die are not merely dirtylaundry; they are abhorrent acts that should shock the consciences of our student representatives, and they merit a response.

Sending a letter may simply be adding our voices to the growing chorus of Queen's University students calling for change on that campus, but it's an important first step. One commentator suggested that perhaps we ought to be working with student groups at McGill to fight discrimination here. I couldn't agree more – but this can best be done in partnership with students from other campuses, not in an isolated vacuum.

(continued from p. 13 - Lewsaw)

latter despite our preference for restraints on the state. This is because every time Mario Dumont says something about spending money to encourage families to have six children, or Sarah Palin discusses the role that God plays in her policy decisions, we are reminded how much more we have in common with our big government left-wing urban friends than we do with these politicians.

This brings me to the disastrous effect the conservative parties' courtship of social conservatism has had on the financial markets. If urban fiscal conservatives were comfortable in the Republican Party, the U.S. would have had more rational economic leadership during the last 8 years. The urban fiscal conservative understands that government has a beneficial role to play in the society and in the economy. Unlike social conservatives, she doesn't think that absolutely everything thegovernment does is inherently evil. She is disgusted at how the Bush administration was completely unwilling to restrain the excessive lending behavior that eventually crippled global markets. Although she finds herself among the minority in the urban liberal parties where love of big government runs largely unchecked, she nonetheless cannot countenance supporting conservative parties dominated by rural traditionalist values. Her moderate, educated approach to financial issues remains untapped therefore by either side.

Only once the social conservative rump is successfully removed from the mainstream North American conservative parties will urban fiscal conservatives be able to voice sensible solutions to financial problems facing our economies. Where shall social conservatives go for electoral representation? While I'm not entirely sure I care, I recommend that they create their own political parties just as the extreme left has done.

The Quid Team would like to wish everyone in the faculty all the best in...

ANTI-INTELLECTUALISM IN AMERICA AND AUSTRALIA

by Hinda Rabkin (LAW IV)

When this edition 'hits' the NCDH basement, I will have finally arrived in Montreal, and no doubt be experiencing the gloom that hits all travellers upon their return. Those who leave warm climates see their misery further compounded. Plans to defect, or alternatively, to be 'kidnapped' by a friend and have my passport taken all seem enticing. Yet, it is most probable that I shall quite tamely say goodbye to summer weather, to friends, to graffiti-laden laneways, to coffee etc. and return to complete my final semester at this faculty.

After only two articles, I am at a bit of a loss as to what to write about. After leafing through the latest Guardian Weekly, I thought perhaps to write about the 'controversy' over the movie Australia: how I saw it received in Australia, how it became a useful conversation filler for everyone ('sooooo' [awkward pause] 'yeah' [silence] 'oh, what did you think of Baz's Australia?'), and how Germaine Greer and Marcia Langton fought in print about its (in)significance. But I found the film quite terrible and I don't think it deserves any further exploration. I am however curious for Atom Egoyan, or, highly unlikely, Denys Arcand to direct a film entitled 'Canada'. Or do vulgarized conceptions of nationhood on film always result in saccharine plots and bad movies?

So I decided to briefly delve into a topic I wrote about for a class I took here called Australia and America. The class compared and contrasted the two nations from a historical perspective. I focused on something that hit me while I was here. Australian society seems to exhibit anti-intellectual sentiment that I find similarly exists in America.

Some of you may be quick to point out that the recently elected leader of one nation is a former law professor and the other speaks fluent Mandarin and graduated with high-class honours. How can these nations be decried as anti-intellectual? But anti-intellectualism is a cyclical phenomenon. Few, if any, societies are statically anti-intellectual or against knowledge (perhaps with the exception of Daoist-based societies?). Furthermore, anti-intellectualism is not an independent historical force or social phenomenon and can best be understood as consisting of numerous symptoms with multiple causes. Richard Hofstadter aptly writes, "[m]en do not rise in the morning grin at themselves in their mirrors, and say: 'Ah, today I shall torment an intellectual and strangle an idea!'" Hardly anyone believes himself to be against thought and culture. Indeed, President George W. Bush called himself the 'education president' while simultaneously declaring that he didn't read newspapers because that would expose him to 'opinions'.

Anti-intellectualism in America and Australia is rooted in historical and political forces that remain relevant in contemporary society. It is not my premise that either nation is void of intellectual giants or significant cultural contributions but that anti-intellectual feelings emanate as extensions of base ideologies in both societies. Allow me to explain.

Firstly, intellect is different from intelligence. Intelligence seeks to order, adjust, manipulate and is generally always admired. On the other hand, intellect examines, ponders, theorizes, criticizes, and most importantly, imagines. Indeed, an intellectual is a person who lives *for* ideas, not *off* them. Someone who lives *off* ideas is termed by Hofstadter a 'mental technician'.

In *Anti-Intellectualism in American Life*, Hofstadter enumerates the four forces of American society that foster anti-intellectualism: (1) its evangelical spirit, (2) egalitarian democracy, (3) its cult of 'practicality', and (4) the organization and commitments of its modern educational establishment.

Religion was the first sphere in which American intellectual life could develop, and thus the first place for anti-intellectual leanings. Since so many of Europe's disaffected and disinherited resettled in America, it became the ideal country for religious 'enthusiasm'. The enthusiasts relied on the validity of inward experience, believing that the learned clergy could not be capable of rousing the laity to salvation.

A second force that fostered anti-intellectualism in America was the growing influence of popular democracy. It is ironic that the United States was founded by intellectuals since for much of America's political history, the intellectual has been considered the scapegoat or the outsider.

The third cause of anti-intellectualism in America is the emphasis of practicality as superior or antithetical to intellectuality. Perhaps due to the harsh demands of early settler life in America which required 'know-how', the hero in America is the businessman whose achievements are the result of arduous work. The marker of business is that one can be good at it without any formal learning or careful breeding. Thus it follows that experience is the best teacher and that education should be confined to teaching elementary life skills. Herman Melville's *Moby Dick* has the sailor Ishmael proudly state that a sailing ship has been his 'Yale College' and his 'Harvard'. The cult of practicality remains very much alive today as business interests pressure universities to increase and strengthen their vocational training (at the expense of the humanities).

The fourth force that contributes to anti-intellectualism is the educational model in America. Belief in mass education was not founded for the sake of cultural or intellectual development but rather because of the politi-

cal and economic benefits of education. Indeed, education was seen as the 'great equalizer' which would open the 'door of opportunity' and allow for social mobility. The democratic assumptions of education are peculiar to America which believes children should be schooled uniformly for so many years. In Europe, children are only schooled together until the age of ten or so, after which they enter specialized academies.

While certainly lacking in evangelical roots, Australia lays claim to strong populist and egalitarian tendencies which contribute to its own brand of anti-intellectualism. Indeed, Nobel Prize winner Patrick White lamented the 'exaltation of the average in Australia' in which 'the mind is the least of possessions, in which the rich man is the important man'.

Another factor of anti-intellectualism in Australia emanates from the 'tall poppy syndrome'. This sentiment in much of Australian society expresses itself as intolerant of the elite and anyone who is distinguished from his peers because of his successes. Robert Dessaix writes in "What is a Public Intellectual" that people must seem to merely give it their best and 'just b[e] lucky....[w]hat Australians are presumably deeply mistrustful of in the intellectual arena is the self-declared intellectual, the self-professed tall poppy, rather than the activities of the tall poppies themselves.' This is why all the intellectuals he interviewed self-identify as 'just doing their job' and would not want to be caught out as self-styled intellectuals. Such an attitude is counter-productive to an intellectual culture, where hard-work, a playful mind, and excellence must be valued.

Indeed, the intellectual class is necessarily elite both in the way that it thinks and functions and is thus at odds with the populist sentiment that pervades the American and Australian ethos. Both societies must learn to contain the flip-side of well-meaning principles that cause such deep-seated mistrust of intellectualism. This is because fostering intellectuals and respecting a life lived for ideas can only enrich their respective societies.

And that is the last you'll hear of Australia from me. That is, unless I get hopelessly nostalgic.

HRWG: Looking Back at Fall 2008

by Dorian Needham (LAWIII)Bryana Jensen

The Human Rights Working Group (HRWG) has been hard at work this semester, and we are pleased to tell you about some of the exciting activities, events, and adventures that our members have been involved with in Fall 2008. In doing so, we gratefully acknowledge the support of the Law Students Association (LSA/AÉD) and the Students' Society of McGill University.

Cette année, il y a eu plusieurs changements organisationnels au sein du Groupe. Les nouveaux coordonateurs généraux, Bryana Jensen et Dorian Needham, ont négocié un nouvel accord financier avec l'AÉD (pour lequel ils remercient les vice-présidentes de l'AÉD Nathalie Nouvet et Jeannine Plamondon pour leur confiance et leur soutien) qui pourrait – s'il s'avère une réussite – être étendu aux autres Clubs aussi tôt que l'année prochaine. Le HRWG a aussi réorganisé sa structure et élargit son équipe d'opérations, tout en s'assurant que chacun des dix Portfolios était adéquatement soutenu dans son travail. Les plus récents Portfolios, comme le **Centre canadien pour la justice internationale** et l'**Immigration**, ont étendu leurs efforts et leur portée, tandis que les plus anciens comme l'**Éducation** et la **Série de films** ont continué leur excellent travail au sein et au-delà la Faculté. De plus, le site web du HRWG (http://hrwg.mcgill.ca) a été refait – et nous vous encourageons de le visiter!

A few examples of the great work being done by HRWG Portfolios should give you an idea as to how much time and effort our members devote to the issues about which they are most passionate. The **Careers** Portfolio worked with **Save Darfur** to host a Social Justice Coffeehouse and Career Panel, part of the wider Social Justice Week that brought art, speakers, and practitioners to the Faculty in order to make all students more aware of injustice and efforts to fight it. The **Court Accompaniment Program**, in addition to sending its members to assist those facing hearings in Small Claims Court and before the Régie du logement, has forged new partnerships that should see it branches into the realm of domestic abuse. The **Bursary** Portfolio continues its efforts to raise money to support unpaid or underpaid summer internships in human rights undertaken by law students. Members of the **HIV/AIDS and Public Health** Portfolio participated in the McGill Global Health Fair and are undertaking an outdoor "die-in" in November to raise awareness of issues surrounding access to essential medicines. Last but not least, the **Equity-Access** portfolio submitted a mémoire to the Parliamentary Commission on homelessness in Quebec, available at http://www.assnat.qc.ca/fra/38legislature1/commissions/cas/depot-itinerance.html.

De plus, le HRWG s'est associé avec le Centre sur les droits de la personne et le pluralisme juridique (CDPPJ) pour accueillir plusieurs invités à la Faculté. Ceux-ci comptent parmi leur nombre Ratna Kapur ,du Centre for Feminist Legal Research en Inde, Vera Gowland-Debbas (Université de Genève) et deux membres du Belgrade Centre for Human Rights. Le HRWG et le CDPPJ ont également organisé, en coopération avec le Career Development Office, un événement de réseautage le 5 novembre pour les étudiants ayant fait ou voulant faire un stage en

droits de la personne.

As we move into exam season, the HRWG's activities will no doubt slow down a little – but we plan to pick right up again in Winter 2009! If you have any questions, or if you would like to get involved, please don't hesitate to contact us at hrwg.law@mail.mcgill.ca. In the meanwhile, we would like to extend our warmest thanks to all of our members for their tireless work and boundless energy.

Bryana Jensen and Dorian Needham
HRWG General Coordinators
2008-09

PROPOSAL REJECTED

by Natai Shelsen (LAW II)

Note: This article is a response to Tim Bottomer's Chit-System Proposal in response to class participation in the last issue of the Quid.

You're sitting in class, listening to your professor, diligently taking notes (not on Facebook or reading *The Onion* while the prof is talking, of course!) and Josie Law Student raises her hand to (*ugh*) participate. And before you know it, she's telling the entire class about *this one time...* And you log on to Facebook. You're here to learn relevant, examinable information from the professor, after all.

But think about Jane Law Student, who is diligently transcribing every word the prof is saying. She's confused - something just doesn't seem to make sense. If the thought of asking the question crosses her mind, it is quickly dismissed - she doesn't want people to think she's dumb. She continues to transcribe verbatim, hoping that maybe she can make sense of it later, on her own.

This simple example is meant to highlight the *Silencing Effect* experienced by many students in our program. The *Silencing Effect* refers to the difficulty some students have raising their hand in class – whether it is to comment or to ask a "legitimate" question – because they're worried about being judged by their peers or because they don't think their opinions and experiences are valuable (or valued). While I recognize that the Chit-System Proposal was meant partly as satire, my criticism of it is two-fold: firstly, it fails to acknowledge the large number of students (and I will argue, particularly female students) who *already* feel silenced in the classroom, and, secondly, it seeks to uphold the status quo of a problematic pedagogy.

Unfortunately, the *Silencing Effect* is a problem experienced (both in our classrooms and out in the real world) largely by those who have historically experienced marginalization. For example, while women may make up more than half of our faculty, a quick survey of many of them confirms this effect: many among us choose ignorance (or more work) over class participation out of fear of what our peers will think – we keep our comments and questions to ourselves so that our intelligence isn't called into question. This is not a problem experienced only by the women in our faculty, of course, or one experienced by all female students, but it is a problem, particularly because this is an institution that is meant to encourage higher learning. Unfortunately, the Chit-System Proposal demonstrates how unaware some students are of the Silencing Effect. I fear that it will also have the effect of silencing those people even further. After all, how likely is Jane to raise her hand now that it has been confirmed that her comments are not valued by her peers?

However, the lack of recognition of the *Silencing Effect* is symptomatic of the fact that the pedagogy of law school is problematic: it favours particular (inappropriate) methods of teaching and learning, as well as specific (inadequate) ways of demonstrating knowledge. The Chit-System Proposal seeks to maintain that status quo, which ultimately disadvantages those who are already marginalized.

Large class sizes are reflective of an individualistic style of learning. However, many studies have indicated that women learn differently that men – women's ways of knowing are usually characterized as collaborative and empathetic, particularly when compared to the more individualistic, competitive modes of learning typically associated with men. This is one of the reasons why experts have asserted that women perform better – and participate more – in smaller classes. These learning styles are contentious, and are by no means decisive – or divisive – but are mentioned here simply to emphasize that there are other equally valuable ways to learn. Law school favours the individualistic style, but class participation presents the opportunity to temper this by encouraging collaboration and connection.

And this is precisely one of the purposes served by those *my uncle's cousin's friend's barber's son* stories: they demonstrate the connections our peers are making between what they have learned in class and its manifestation in the real world. It could be argued that the ability to make those connections is just as (if not more) reflective of true learning than a 3-hour, 100% exam that places students in less-than-realistic conditions. Additionally, some people may feel more comfortable sharing stories initially, because doing so doesn't show the same weakness that lack of comprehension apparently shows. Encouraging this type of participation may be an important step towards making those among us who experience the *Silencing Effect* more comfortable in the classroom.

Furthermore, our peers' an-

ecdotes often draw on their life experiences, and these should be valued; their value was certainly appreciated by the Admissions Committee that chose each of us in an onerous, selective process. Who are we to say that we are not here to learn from one another – from our experiences, our backgrounds, our unique perspectives – when it is exactly those things that got us into this program? What is the point of selecting well-rounded, accomplished students if we have to check those things that contribute to our qualifications at the door of the classroom?

Ideally, yes, all of our courses would be small, seminar-style classes which are designed for participation. More realistically, perhaps, our professors would be more adept at controlling participation. But for the time being, we must work within our means, and do the best with what we've got: students who participate (either by asking questions or by sharing their experiences) and professors who have either not mastered the art of classroom control, or who perhaps (*gasp!*) see the value of participation even in large lecture-style classes. So, next time you're annoyed by Josie Law Student, think about all those Janes who never raise their hands. Think about those students who are so worried about what their peers will think that they would rather not know. Think about the *Silencing Effect*.

Participation – whether in the form of asking questions or sharing stories – should be encouraged, not condemned. Doing so may facilitate the participation of those who experience the *Silencing Effect*, and may work towards teaching us that we have a lot to learn from each other, and should take as many opportunities – both inside and outside of the classroom – to do so. Ultimately, it may encourage us to reconsider the kind of learning and the ways of knowing that we currently value. The benefits of doing so make this especially important in a(n allegedly) progressive institution that is shaping the leaders of tomorrow.

Breaking the Legal Silence

by Pascal Archambault Bouffard (LAW I)

Among the many contemporary debates within the legal world—of those hot topics that split thinkers irreconcilably—jurists have failed to make room for a pressing issue which, although obvious, has been overlooked by those versed in the law, past and present.

Indeed, we have suffered its existence to escape our critique, in gross defiance of its blatancy. Through pure obstinacy in denial, we have all ignored it. Always, we have refused to perceive the need for delving into it, for we could not understand how it might further the object of human justice.

In law journals across the world, ink is abundantly shed for various critical issues: the juridical status of fetuses, capital punishment, women's rights in the Middle East, gay marriage... Yet, none on this topic, which—arguably—is on its own more imperative than all of those listed above, even combined.

It can be ignored no more. We must—must—break the silence, and ask ourselves: what about the Ninja?

I beg you—roll not your eyes, for you would be no better than those before us who have disregarded the legal fate of the Ninja; in so doing letting prejudice prevail. Open-mindedness is required to read on...

I concede—skepticism is reasonable: does the Ninja, properly and strictly speaking, even truly exist?

Modern theorist Robert Stephens, along with breakthrough thinker Kate MacKay, has put forward what is to date the most compelling proof of the existence of the Ninja. The argument goes as follows:

When we speak of the Ninja, we speak of the most badass being ever—that is, we speak of the being than which nothing more badass can be conceived. But consider this: is it more badass to exist only in the mind, or to exist both in the mind and in reality—outside the mind? Certainly, it is much more badass to exist in reality. So when we conceive of the most badass being ever, we are conceiving of the being that exists in both the mind and in reality. Since the Ninja is that being than which nothing more badass can be conceived, and since such being must exist in the mind and in reality, the Ninja exists in reality. Thus, the Ninja exists.

How, then, can we prolong our dissent?—we cannot. The existence of the Ninja is irrefutable, and the Law ought to reckon with this manifest fact.

Indeed, the Ninja's intrinsic badassness—supplemented by the sweetassness that flows from this stealthy, masked assassin's combat methods and moves—ought to confer unto the Ninja a sui generis juridical status.

A simple example will make obvious this point: at any time the Ninja may bust a sweetass move, which may occasion one or more deaths. It stands to reason, however, that the Ninja be exempt from trial (for the reasons given above, as well as for legal practitioners' own safety). Indeed, when the Ninja slays, none may suitably speak of it as murder (instead—since there are no authorities on the subject—I offer the novel technical term of a "sweetass kill").

This reasoning must likewise extend to any kind of damage that results from the Ninja simply doing what the Ninja does.

Yet, so long as we turn a blind eye to this critical issue, injustice is bound to proliferate—for the Ninja will be considered a "person" (like you and me) in accordance with the current law, and not as the enigmatic, badass assassin who masters sweetass skills in the art of stealth and close combat that the Ninja is.

It is time to break the silence!—time to cease the ongoing discrimination that the Ninja suffers under our legal system, which grossly refuses to recognize the Ninja.